

§ 3020.52

(d) Provide all supporting justification upon which the proponent of the request proposes to rely; and

(e) Include a copy of the applicable sections of the Mail Classification Schedule and the proposed changes therein in legislative format.

§ 3020.52 Supporting justification.

Supporting justification shall be in the form of a statement from a knowledgeable proponent of the request who attests to the accuracy of the information contained within the statement. The justification shall:

(a) Demonstrate why the change is in accordance with the policies and the applicable criteria of chapter 36 of 39 U.S.C.;

(b) Explain why, as to market dominant products, the change is not inconsistent with each requirement of 39 U.S.C. 3622(d), and that it advances the objectives of 39 U.S.C. 3622(b), taking into account the factors of 39 U.S.C. 3622(c);

(c) Explain why, as to competitive products, the addition, deletion, or transfer will not result in the violation of any of the standards of 39 U.S.C. 3633.

(d) Verify that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can, without risk of losing a significant level of business to other firms offering similar products:

- (1) Set the price of such product substantially above costs;
- (2) Raise prices significantly;
- (3) Decrease quality; or
- (4) Decrease output.

(e) Explain whether or not each product that is the subject of the request is covered by the postal monopoly, as reserved to the Postal Service under 18 U.S.C. 1696 subject to the exceptions set forth in 39 U.S.C. 601;

(f) Provide a description of the availability and nature of enterprises in the private sector engaged in the delivery of the product;

(g) Provide any information available on the views of those who use the product on the appropriateness of the proposed modification;

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(h) Provide a description of the likely impact of the proposed modification on small business concerns; and

(i) Include such information and data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed modification.

§ 3020.53 Docket and notice.

The Commission will establish a docket for each request to modify the market dominant list or the competitive product list, promptly publish notice of the request in the FEDERAL REGISTER, and post the filing on its Web site. The notice shall include:

(a) The general nature of the proceeding;

(b) A reference to legal authority to which the proceeding is to be conducted;

(c) A concise description of the proposals for changes in the Mail Classification Schedule;

(d) The identification of an Office of the Commission to represent the interests of the general public in the docket;

(e) A specified period for public comment; and

(f) Such other information as the Commission deems appropriate.

§ 3020.54 Postal Service notice and reply.

The Secretary of the Commission shall forward to the Postal Service a copy of the request. Within 28 days of the filing of the request, the Postal Service shall provide its preliminary views in regard to the request. The Postal Service may include suggestions for appropriate Commission action in response to the request.

§ 3020.55 Review.

The Commission shall review the request, the Postal Service reply, and any public comment to determine whether the proposed modification to the market dominant and competitive product lists complies with applicable statutory requirements and the Commission's rules, and whether the proposed modification is consistent with the position of the Postal Service as expressed in its reply. The Commission shall either:

(a) Approve the request to modify the market dominant and competitive product lists, but only to the extent the modification is consistent with the position of the Postal Service;

(b) Reject the request;

(c) Institute further proceedings to consider the request to modify the market dominant and competitive product lists; or

(d) Direct other action as the Commission may consider appropriate.

§ 3020.56 Further proceedings.

If the Commission determines that further proceedings are necessary, a conference shall be scheduled to consider the merits of going forward with the request. Upon conclusion of the conference, the Commission shall promptly issue a ruling to:

(a) Provide for a period of discovery to obtain further information;

(b) Schedule a hearing on the record for further consideration of the request;

(c) Explain the reasons for not going forward with formal proceedings; or

(d) Direct other action as the Commission may consider appropriate.

Subpart D—Proposal of the Commission To Modify the Product Lists Described Within the Mail Classification Schedule

§ 3020.70 General.

The Commission, of its own initiative, may propose a modification to the market dominant product list or the competitive product list provided within the Mail Classification Schedule. For purposes of this part, modification shall be defined as adding a product to a list, removing a product from a list, or transferring a product from one list to the other list.

§ 3020.71 Contents of a proposal.

A proposal to modify the market dominant product list or the competitive product list shall:

(a) Provide the name, and class if applicable, of each product that is the subject of the proposal;

(b) Indicate whether the proposal would add a product to the market dominant list or the competitive list,

remove a product from the market dominant list or the competitive list, or move a product from the market dominant list to the competitive list or from the competitive list to the market dominant list;

(c) Indicate whether each product that is the subject of the proposal is:

(1) A special classification within the meaning of 39 U.S.C. 3622(c)(10) for market dominant products;

(2) A product not of general applicability within the meaning of 39 U.S.C. 3632(b) for competitive products; or

(3) A non-postal product.

(d) Provide justification supporting the proposal; and

(e) Include a copy of the applicable sections of the Mail Classification Schedule and the proposed changes therein in legislative format.

§ 3020.72 Supporting justification.

Supporting justification shall:

(a) Provide an explanation for initiating the docket;

(b) Explain why, as to market dominant products, the change is not inconsistent with each requirement of 39 U.S.C. 3622(d), and that it advances the objectives of 39 U.S.C. 3622(b), taking into account the factors of 39 U.S.C. 3622(c);

(c) Explain why, as to competitive products, the addition, subtraction, or transfer will not result in the violation of any of the standards of 39 U.S.C. 3633;

(d) Verify that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can, without risk of losing a significant level of business to other firms offering similar products:

(1) Set the price of such product substantially above costs;

(2) Raise prices significantly;

(3) Decrease quality; or

(4) Decrease output.

(e) Explain whether or not each product that is the subject of the request is covered by the postal monopoly as reserved to the Postal Service under 18 U.S.C. 1696 subject to the exceptions set forth in 39 U.S.C. 601;

(f) Provide a description of the availability and nature of enterprises in the